

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN ROBERT DEMOS,

Petitioner,

V.

DONALD R HOLBROOK,

Respondent.

NO. C18-1150-MJP-JPD

REPORT AND RECOMMENDATION

Bar-order litigant John Demos has filed an application to proceed *in forma pauperis* with a proposed 28 U.S.C. § 2241 habeas petition. Dkt. 1. Although Mr. Demos purports to proceed under § 2241, he challenges his state court conviction, and therefore the proper basis for his habeas relief is 28 U.S.C. § 2254. An Order of this Court provides for the return without filing of any petition by Mr. Demos that seeks an extraordinary writ pursuant to 28 U.S.C. §§ 1651, 2253 or 2254, unless accompanied by the filing fee. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997).

As Mr. Demos has submitted no filing fee, the Court recommends that, pursuant to the Court's Order of March 13, 1997, the Clerk be DIRECTED to administratively close this matter and to strike any pending motions as moot. Moreover, Mr. Demos may not proceed with a

1 second or successive habeas petition here unless and until the Ninth Circuit authorizes its filing.

2 See 28 U.S.C. § 2244(b)(3)(A). A proposed Order is attached.

3 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
4 served upon all parties to this suit by no later than **September 5, 2018**. Failure to file objections
5 within the specified time may affect your right to appeal. Objections should be noted for
6 consideration on the District Judge's motion calendar for the third Friday after they are filed.
7 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no
8 timely objections are filed, the matter will be ready for consideration by the District Judge on
9 **September 7, 2018**.

10 This Report and Recommendation is not an appealable order. Thus, a notice of appeal
11 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
12 assigned District Judge acts on this Report and Recommendation.

13 DATED this 15th day of August, 2018.

14 
15 JAMES P. DONOHUE
16 United States Magistrate Judge